

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

JOSEPH CAMPOSANO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. _____
	)	
KRISPY KREME DOUGHNUT	)	
CORPORATION,	)	
	)	
Defendant.	)	
_____	)	

**DEFENDANT’S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441(a), (c), and § 1446, Defendant Krispy Kreme Doughnut Corporation (“Defendant”) files this Notice of Removal to the United States District Court for the District of South Carolina, Greenville Division. Removal is proper based on the following grounds:

1. A civil action was filed by Plaintiff on April 14, 2020 and is now pending in the Court of Common Pleas of Greenville County, South Carolina. That action appears by the title of *Joseph Camposano v. Krispy Kreme Doughnut Corporation* and designated as File No. 2020-CP-23-02124 (the “State Court Action”). Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendant from the State Court Action are attached hereto as Exhibit A.

2. This Notice of Removal is being filed timely within thirty (30) days after receipt, by Defendant by service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based as required by 28 U.S.C. § 1446(b). Defendant accepted service on April 17, 2020.

3. No further proceedings have been had in the Court of Common Pleas of Greenville County, as of the date of the filing of this Notice.

4. This Court has original jurisdiction as federal courts can hear “all cases, in law and equity, arising under this Constitution, [and] the laws of the United States...” US Const., Art. III, Sec. 2. Plaintiff brings claims under 29 U.S.C. § 2601. Plaintiff’s Complaint asserts two causes of action, both of which arise under the Family and Medical Leave Act, 29 U.S.C. § 2601, *et seq.* Therefore, since all of the claims asserted by Plaintiff arise under federal law, this Court has jurisdiction pursuant to 28 USC § 1331.

5. Additionally, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) in that the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

6. There is complete diversity in this case. The Complaint alleges that Plaintiff is a citizen and resident of Greenville County, South Carolina. The Defendant Krispy Kreme Doughnut Corporation is a corporation organized and existing under the laws of the State of North Carolina, with its corporate headquarters in Charlotte, North Carolina. Accordingly, pursuant to 28 U.S.C. § 1332, this is an action between citizens of different states. Diversity jurisdiction existed at the time the Complaint was filed, has existed since that time, and exists at the time of this removal.

7. Plaintiff failed to plead that his damages were less than \$75,000 in accordance with S.C.R. Civ. P. 8(a). Accordingly, the amount in controversy exceeds \$75,000. Thus, removal under 28 U.S.C. § 1441(b) is proper.

8. The Court’s determination of the amount in controversy must be based on the good faith sum demanded in Plaintiff’s Complaint at the time the petition for removal is filed. *See, e.g.,*

*Francis v. Allstate Ins. Co.*, 709 F.3d 362, 367 (4th Cir. 2013); *see also St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 288-89 (1938) (“The sum claimed by the plaintiff controls if the claim is apparently made in good faith...[i]t must appear to a legal certainty that the claim is really for less than the jurisdictional amount to justify dismissal.”). Plaintiff seeks a judgment for all back and front lost compensation, commissions, and benefits, as well as liquidated damages and compensatory damages. Therefore, based upon the relief expressly sought in the Complaint, the amount in controversy in this action exceeds \$75,000.

9. Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removal of the State Court Action is appropriate.

10. Written notice of the filing of the Notice of Removal is being served upon Plaintiff, and a copy of this Notice of Removal will be filed with the Clerk of the Court of Common Pleas, Greenville County as provided by 28 U.S.C. § 1446(d).

11. Venue is proper in this court pursuant to 28 U.S.C. § 1441(a) in that this district and division embrace the place where the action is pending.

12. Defendant reserves the right to amend or supplement this Notice of Removal.

13. This removal is made without waiver of any defenses or affirmative defenses, including those under Fed. R. Civ. P. 12, or Defendant’s right to move for dismissal, on substantive or procedural grounds, of any cause of action asserted in the Complaint.

WHEREFORE, Defendant prays that further proceedings in the Greenville County Court of Common Pleas for the State of South Carolina be discontinued and that said Civil Action No. 2020-CP-23-02124 now pending in the Greenville County Court of Common Pleas for the State of South Carolina be removed to the United States District Court for the District of South Carolina and that such Court assume full jurisdiction of such action as provided by law.

Respectfully submitted,

s/ Ellison F. McCoy

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***ATTORNEYS FOR DEFENDANT KRISPY  
KREME DOUGHNUT CORPORATION***

Dated: May 15, 2020

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

JOSEPH CAMPOSANO,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. _____
	)	
KRISPY KREME DOUGHNUT	)	
CORPORATION,	)	
	)	
Defendant.	)	
_____	)	

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing **DEFENDANT’S NOTICE OF REMOVAL** was served this day on counsel for Plaintiff via United States Mail, postage prepaid and addressed to:

Jeremy R. Summerlin, Esq.  
Horton Law Firm, P.A.  
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s/ Ellison F. McCoy  
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Matthew R. Ozment (Fed. ID No. 12403)  
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KREME DOUGHNUT CORPORATION**

Dated: May 15, 2020